

REMARKS

The examiner is invited to telephone the undersigned to discuss any issues deemed remaining after consideration of this amendment.

Submitted herewith is a Petition for a three month extension of time. The petition contains authorization to charge our Deposit Account No. 19-0365 for the required fee for such extension. The grant of this extension makes January 22, 2006 the due date for response.

This amendment adds one independent claim. In view of the kind and number of claims already paid for, no fee is deemed due for this claim. However, if a fee is deemed due, then authorizing is hereby given to charge such fee to our Deposit Account No. 19-0365.

Also submitted herewith is an Information Disclosure Statement. A Fee Transmittal sheet is submitted herewith authorizing a charge to our Deposit Account No. 19-0365 for this submission.

The claims have been amended to better define Applicants' claimed invention and to expedite prosecution.

Claims 1, 2, 3, 5, 29, 37, 40, 41, 42, 64, 65, 66, and 67 have been amended.

Claim 40 was made independent.

New independent Claim 132 has been added.

Claims 68, 69, 74 to 85, 94 to 111, and 120 to 131 have been canceled without prejudice.

Claims 4, 6 to 28, 30 to 36, 38, 39, 43 to 66, 70 to 73, 86-93, and 112 to 119 are as originally filed.

Applicants reserve the right to pursue the canceled subject matter in an appropriately filed continuing application.

Rejection – 35 U.S.C. 112

Claim 37 stands rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement for the reasons of record.

Applicants respectfully traverse this rejection.

Applicants' specification does contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and does set forth the best mode contemplated by the inventors of carrying out the invention.

Applicants' specification clearly describes pharmaceutical salts known to those skilled in the art.

However, in order to expedite prosecution, Applicants have amended Claim 37 to specify the salts.

The sodium, potassium, calcium, aluminum, gold, silver and N-methylglucamine salts are based on the disclosure in the first paragraph on about page 129. The hydrochloric, sulfuric, phosphoric, acetic, citric, oxalic, malonic, salicylic, malic, fumaric, succinic, ascorbic, maleic, and methanesulfonic salts are based on the second paragraph on about page 129.

The Examiner is therefore requested to reconsider and withdraw this rejection.

Rejection – 35 U.S.C. 112

Claims 1-39, and 68-73 stand rejected under 35 U.S.C. 112, second paragraph, for the reasons of record.

Applicants' respectfully traverse this rejection.

Applicants' specification does conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the Applicants regard as the invention.

However, in order to expedite prosecution the claims have been amended.

Claim 1 has been amended to recite the heterocyclic acidic functional groups. Support for this amendment may be found, for example, on page 15 at lines 23-24. This language has also been incorporated in new claims 133 and 135.

The rings on pages 472 and 474 are not the same in that the rings on page 474 are substituted and the rings on page 472 are not substituted. The rings on page 474 are in paragraph (2) and after the recitation of rings (lines 9 and 10 on page 475) there is stated in the original claim:

“wherein the above rings of said A groups are substituted with 1 to 6 substituents each independently selected from the group consisting of: R⁹ groups”

Clearly Applicants' intended for the rings in paragraph (2) to be substituted. The definition of R⁹ includes R¹³ (see page 481 for example), and the definition of R¹³ includes H (see page 482 for example). Applicants have amended the claims to make explicit that which was already implicit, that is, that the rings in paragraph (2) are substituted, that is when R⁹ is R¹³ then R¹³ is not H. This same amendment has been made in paragraphs (3) and (4).

The claims have been amended to exclude the “(fluoroalkyl is one non-limiting...)” language on page 481. The Examiner is thanked for pointing this out to Applicants.

The claims have also been amended to delete the “(preferably a 4 to 7...)” language at line 18 on page 479.

The Examiner is requested to reconsider and withdraw this rejection.

Rejection – 35 U.S.C. 102

Claims 1-2, 8, 29, and 33 stand rejected under 35 U.S.C. 102(b) as being anticipated by Schostarez et al. for the reasons of record.

Claims 1-2, 8 and 29 stand rejected under 35 U.S.C. 102(b) as being anticipated by Martinez et al.

In order to expedite prosecution Applicants have amended the claims so that Applicants' generic scope does not include the compounds in the cited references.

The Examiner is therefore requested to reconsider and withdraw this rejection.

Allowable Subject Matter

Applicants note with appreciation the indication of allowability of Claims 40 to 67. Applicants have made Claim 40 independent. Applicants have also added to

Claim 40 the compounds from Claims 65-67 so that Claims 65-67 can depend on Claim 40. The last two compounds added to Claim 40 are from Claim 41 so that Claim 41 can depend on Claim 40.

Additional Matters

Claim 68 has been canceled without prejudice.

New Claim 132 has been added to claim the final compounds of the Examples in the present application.

In order to expedite prosecution Claim 69 has been canceled without prejudice.

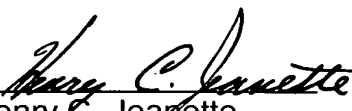
Rejoinder

The Office Action indicates that Claims 74 to 131 would have 35 U.S.C. 112 problems if rejoined, and the Office Action makes observations about the method of treating cancer claims. Applicants have not addressed any remarks to the observations in the Office Action because no 35 U.S.C. 112 rejections have been made, and as such the absence of any remarks should not be construed as Applicants' agreement with the observations made.

In order to expedite prosecution, Applicants have canceled without prejudice, method claims 74 to 85, 94 to 111 and 120 to 131.

Applicants request rejoinder of Claims 86 to 93 and 112 to 119.

Respectfully submitted,


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